

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RODNEY DAVISON,
Plaintiff,

vs.

C/O MACLEAN ET AL,
Defendants

CIVIL ACTION No. 06-12755

**HONORABLE AVERN COHN
HONORABLE STEVEN D. PEPE**

ORDER DENYING PLAINTIFF’S APPLICATION FOR APPOINTMENT OF COUNSEL (DKT. #3)

Rodney Davison is a prisoner in the custody of the Michigan Department of Corrections (“MDOC”). On June 22, 2006, he filed this action under 42 U.S.C. §1983 against several defendants in their official and individual capacities. Plaintiff alleges claims of retaliation against the Defendants in response to Plaintiff’s exercise of protected First Amendment activities. All pretrial matters were referred to the undersigned pursuant to 28 U.S.C. §636(b)(1)(A),(B). For the reasons stated below, Plaintiff’s Motion For Appointment Of Counsel is DENIED.

Under 28 U.S.C. §1915(e)(1), a federal court may request counsel to represent an indigent plaintiff. 28 U.S.C. §1915(e)(1); *Reneer v. Sewell*, 975 F.2d 258, 261 (6th Cir. 1992). Yet, appointment of counsel for an indigent party is a privilege justified only under exceptional circumstances. *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993). To determine whether exceptional circumstances necessitating the appointment of counsel are present, courts consider the type of case involved, the ability of the plaintiff to represent himself, the complexity of the factual and legal issues, and whether the plaintiff’s claims are frivolous or have an extremely small likelihood of success. *Id.*; *Reneer*, 975 F.2d at 261; *Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1985).

Plaintiff’s complaint focuses on claims of retaliation and religious discrimination allegedly

inflicted by the Defendants. The factual issues raised by Plaintiff in his 12 page typewritten complaint are clear and straightforward. Plaintiff has demonstrated in his complaint that he understands the legal issues and can present these issues to a court in a satisfactory manner. Indeed, Plaintiff's complaint demonstrates a legal capacity superior to many *pro se* prisoner complaints in this Court. He pleads retaliation for his exercise of his Muslim religion, three defendants writing separate false misconduct tickets, and the fourth removing him from a coveted prison job. Plaintiff was found not guilty on all three tickets and alleges all Defendants' actions were motivated by his exercise of his religion. Plaintiff demonstrates a knowledge of the constitutional standards to state a §1983 claim for supervisory liability and the need to demonstrate authorization or approval of the subordinate's actions. He has also plead exhaustion of administrative remedies for each claim.

Plaintiff indicates that he feels that he will not adequately be able to conduct discovery while incarcerated. Yet, there is no reason to believe that Plaintiff will be denied access to the discovery process, and many of the facts relevant to the claims are in the possession of Plaintiff. Also, it must be noted that there is a great scarcity of attorneys available to represent indigent persons in this Court. This Court has no funds to secure attorneys for indigent parties in civil cases, and has great difficulty finding a sufficient number of attorneys willing to volunteer time to serve in *pro bono* cases without payment.

Accordingly, Plaintiff's motion for appointment of counsel is DENIED. It may be renewed after Defendants' November 6, 2006, dispositive motion on alleged failure to exhaust is resolved by the Court.

SO ORDERED.

Dated: January 30, 2007
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that on January 31, 2007, electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Diane M. Smith, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Rodney Davison, #213113, Kinross Correctional Facility, 18770 E. Watertower, Kincheloe, MI 49755

s/ James P. Peltier
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